

The stipulations of the parties are listed in the Award of the Administrative Law Judge and are adopted by the Appeals Board for this review.

ISSUES

The Administrative Law Judge ruled claimant's bilateral epicondylitis was a continuum of the bilateral carpal tunnel and overuse syndrome that was the subject injury in Docket No. 168,888, and, therefore, did not constitute a new and distinct injury for which claimant would be entitled to benefits in this proceeding. Claimant requested review. The issues now before the Appeals Board are:

- (1) Whether the development of bilateral epicondylitis constitutes a new and distinct injury for which claimant is entitled benefits in this proceeding, or whether the condition is a continuum of the injury addressed in Docket No. 168,888 and properly addressed by way of review and modification in that proceeding.
- (2) If a new and distinct injury, what is the nature and extent of injury and disability?

On December 20, 1994, the Administrative Law Judge issued a combined award in this proceeding and the review and modification proceeding of Docket No. 168,888. Because the Appeals Board has concluded the bilateral epicondylitis is a separate and distinct injury, we are separating the proceedings for purposes of award.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board finds as follows:

For the reasons expressed below, claimant has suffered a new and distinct injury that has resulted in bilateral epicondylitis as a result of her work activities when she returned to work for the respondent in February 1993. Therefore, this case should be remanded to the Administrative Law Judge for determination of the issues surrounding this workers compensation claim.

Claimant developed bilateral epicondylitis after she returned to work for the respondent in February 1993 after being off work for treatment of bilateral carpal tunnel syndrome. Although Dr. Schlachter testified the epicondylitis developed as a natural progression of the original overuse disease process, he also believes that it developed as a direct result of claimant's repetitive work activities. Dr. Artz testified he was unsure of the exact cause of the epicondylitis, but he believes the claimant's work activities probably aggravated it. Dr. Blaty also testified and attributes the problem to cumulative trauma after claimant returned to work. The medical evidence is uncontroverted that epicondylitis and carpal tunnel syndrome are separate and distinct diagnoses and conditions. Based upon both the claimant's testimony and the medical evidence, the Appeals Board finds claimant returned to work for respondent in February 1993 and thereafter developed bilateral epicondylitis as a result of the repetitive work required of her job, and that the injury constitutes a new and distinct accident for which claimant may request workers compensation benefits separate and apart from the claim for bilateral carpal tunnel syndrome which is the subject injury in Docket No. 168,888.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the decision of the Administrative Law Judge denying claimant benefits for bilateral

epicondylitis and the permanent impairment and disability that has resulted therefrom, is reversed; and that this proceeding should be, and hereby is, remanded to the Administrative Law Judge for determination of the issues presented by the parties in light of the decision rendered herein. The Appeals Board does not retain jurisdiction in this matter and any party aggrieved by the subsequent award of the Administrative Law Judge must comply with the appropriate procedure to obtain review.

IT IS SO ORDERED.

Dated this ____ day of March, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Joseph Seiwert, Wichita, KS
Kendall Cunningham, Wichita, KS
John C. Nodgaard, Wichita, KS
Shannon S. Krysl, Administrative Law Judge
George Gomez, Director